

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

TROY VANCURTIS ELLIS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:12cv777-DPJ-FKB

SHERIFF TYRONE LEWIS, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

This cause comes before the undersigned on the motion of Defendants Sheriff Tyrone Lewis and the Hinds County Board of Supervisors to dismiss without prejudice. Plaintiff has not responded to the motion. The undersigned recommends that the motion be granted.

Plaintiff is a state inmate who was previously housed at the Hinds County Detention Center (HCDC). He is proceeding *in forma pauperis*. In his complaint, he alleges that he did not receive medical care after being struck on the head by a steel cover plate on July 14, 2012, at HCDC. Plaintiff has asserted this identical claim in an amendment to an earlier-filed action in this court, *Troy Vancurtis Ellis v. Major Mary Rushing, et al.*, civil action no. 3:11cv749-LRA. The earlier action remains pending. The Fifth Circuit has indicated that a subsequent *in forma pauperis* lawsuit that is duplicative of an earlier-filed one may be dismissed. *Pittman v. Moore*, 980 F.2d 994, 995 (5<sup>th</sup> Cir. 1993).

For this reason, the undersigned recommends that this action be dismissed without prejudice. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and

recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. § 636; Fed. R. Civ. P. 72(b); *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Respectfully submitted, this the 29<sup>th</sup> day of October, 2013.

/s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE